



Memorandum

MANAGING DIRECTOR'S OFFICE

DATE: April 28, 2014

TO: Matthew T. Breslin, Legislative Consultant, Karoub Associates

FROM: Dennis G. Kolar, Managing Director, Road Commission for Oakland County
Patrick J. Carty, General Counsel, Road Commission for Oakland County

SUBJECT: LEGAL ANALYSIS, H.B. 4251

H.B. 4251 would authorize a township, under certain conditions, to require a Board of County Road Commissioners to bid project work (thus precluding the Board from utilizing its own forces); and would vest in a township the right to approve or presumably to disapprove) a "final contract" for such a project.

Quite clearly, this would remove from boards of road commissioners, their legitimate discretionary authority to determine the appropriate methods for having road work performed on roads under their jurisdiction and for which they are responsible; and in situations involving bid solicitation, to determine and select the lowest possible bidder.

This bill would preclude boards of road commissioners from exercising their discretion regarding the above referenced matters, while leaving them subject to potential liability which could result from such decisions; while the townships, which in fact made the questioned decisions, would be without any liability exposure for their decisions,

Further, and in addition to the previously referenced concerns, it ought to be also noted that the bill is sufficiently vague (as in its reference to road projects without definition or township disapproval of final contract without further elaboration) as to allow for conflicting interpretations of its provisions, and thus the likelihood of future litigation.

We would oppose H.B. 4251 for the reasons addressed above.